

Message Text

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PAGE 01 IAEA V 07055 121354Z

53

ACTION ACDA-19

INFO OCT-01 ISO-00 AEC-11 AF-10 ARA-16 CIAE-00 DODE-00

EA-11 EUR-25 PM-07 H-03 INR-11 IO-14 L-03 NASA-04

NEA-14 NSAE-00 NSC-07 OIC-04 SP-03 PA-04 PRS-01

RSC-01 SCI-06 SS-20 USIA-15 SAJ-01 DRC-01 (ISO) W

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R 120948Z AUG 74

FM USMISSION IAEA VIENNA

TO SECSTATE WASHDC 0000

INFO AEC GERMANTOWN

AMEMBASSY BONN

USMISSION EC BRUSSELS

USMISSION GENEVA

AMEMBASSY LONDON

AMEMBASSY MEXICO

AMEMBASSY MOSCOW

AMEMBASSY ROME

AMEMBASSY SEOUL

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USMISSION USUN NEW YORK

AMEMBASSY BRASILIA

AMEMBASSY BUENOS AIRES

AMCONSUL RIO DE JANEIRO

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DISTO

E.O. 11652: N/A

TAGS: PARM TECH PFOR IAEA UR US

SUBJECT: NPT REVIEW CONFERENCE - OPANAL MEMORANDUM

REF: IAEA VIENNA 6903

1. MISSION HAS OBTAINED COPY OF LETTER DATED 6/28/74

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PAGE 02 IAEA V 07055 121354Z

FROM OPANAL SEC GEN GONZALEZ-DE-LEON TO EKLUND TRANSMITTING

COPIES OF MEMORANDUM PREPARED FOR CIRCULATION AT
AUGUST NPT PREPCOM (PARA 6 REFTEL). TEXT OF LETTER
AND MISSION COMMENTS FOLLOW (MEMORANDUM TO BE POUCHED
SEPARATELY WHEN RECEIVED):

"DEAR DR. EKLUND:

"I TAKE PLEASURE IN SENDING HERewith TWO COPIES
OF THE MEMORANDUM WHICH WE HAVE PREPARED FOR THE
PREPARATORY COMMITTEE FOR THE REVIEW CONFERENCE OF THE
PARTIES TO THE TREATY ON THE NON-PROLIFERATION OF NUCLEAR
WEAPONS, WHICH WILL BE MEETING AGAIN IN AUGUST.

"AS YOU WILL SEE, OUR MAIN CONCERNS ARE REFERRED
TO THE DOMESTIC IMPLICATIONS, IN EACH STATE, OF THE
PROHIBITION OF MILITARY USES OF NUCLEAR ENERGY; OF THE
PROHIBITION--IN THE CASE OF STATES PARTIES TO THE
TREATY OF TLATELOLCO--OF TRANSIT OF NUCLEAR WEAPONS
THROUGH THE TERRITORY OF EACH STATE, AND THE LEGAL
IMPLICATIONS OF BOTH PREVIOUS PROHIBITIONS IN STATES
WHO DO NOT EXERCISE EFFECTIVE JURISDICTION IN CERTAIN
PORTIONS OF THEIR NATIONAL TERRITORY (I.E., PANAMA).

"WITH RESPECT, SPECIFICALLY, TO THE NON-PROLIFERATION
TREATY, YOU WILL SEE THAT WE WOULD WANT A MORE EFFECTIVE
RECOGNITION OF THE VALIDITY OF REGIONAL TREATIES AS A
MEANS FOR STATES TO RENOUNCE NUCLEAR WEAPONS, WHETHER
OR NOT THEY HAVE ADHERED TO THE NON-PROLIFERATION TREATY.
FURTHER, WE CLAIM THAT FACILITIES AND EXCHANGE OF MATERIALS
AND SCIENTIFIC AND TECHNOLOGICAL INFORMATION--INCLUDING,
EVENTUALLY, THOSE PERTAINING TO PEACEFUL NUCLEAR EXPLOSIONS--
SHOULD BE AVAILABLE TO ANY COUNTRY WHO HAS FORMALLY
RENOUNCED NUCLEAR WEAPONS THROUGH ANY VALID INTERNATIONAL
AGREEMENT ACCORDING TO INTERNATIONAL LAW--SUCH AS REGIONAL
ARRANGEMENTS FOR THE PROHIBITION OF NUCLEAR WEAPONS.
FINALLY, AND THIS IS OF DIRECT INTEREST TO YOU--OUR
POSITION IS THAT INTERNATIONAL SAFEGUARDS (PARTICULARLY
THOSE OF THE IAEA) SHOULD BE APPLICABLE TO ANY STATE
WHICH SO REQUIRES, SPECIALLY THOSE WHO HAVE FORMALLY
RENOUNCED THE POSSESSION OR USE OF NUCLEAR WEAPONS
THROUGH A VALID INSTRUMENT, WHETHER OR NOT THEY ARE
PARTIES TO THE NON-PROLIFERATION TREATY.

"I DO NOT HAVE TO TELL YOU HOW MUCH WE HAVE
APPRECIATED ALL THE CO-OPERATION YOU ARE GIVING US IN
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PAGE 03 IAEA V 07055 121354Z

MANY RESPECTS; I JUST WOULD ADD THAT WE EXPECT YOUR
UNDERSTANDING WITH RESPECT TO OUR VIEWS IN THIS MATTER:
NOT ONLY WE ARE TRYING TO ENFORCE IN EVERY WAY THE
TREATY OF TLATELOLCO, BUT WE ARE ALSO INTERESTED IN
SEEING THAT NO DEVIATION FROM THE SPIRIT AND THE LETTER
OF THE IAEA STATUTE IS CAUSED BY AN ARBITRARY OR
ABUSIVE INTERPRETATION OF THE NON-PROLIFERATION TREATY:
THERE IS AN OBVIOUS INTERACTION BETWEEN THE TREATY

AND THE FUNCTIONS OF THE IAEA, BUT THERE SEEMS TO BE NO REASON WHY THE TREATY SHOULD VIRTUALLY AMEND THE STATUTE."

2. COMMENT. WE EXPECT TO OBTAIN COPY OF MEMORANDUM SHORTLY; HOWEVER WE UNDERSTAND THAT FOREGOING LETTER INCLUDES KEY POINTS OF THE MEMORANDUM ITSELF. MEMORANDUM PROBABLY IS REPLY TO PREPCOM INVITATION TO OPANAL "TO SUBMIT.... A DOCUMENT REPORTING ON THE IMPLEMENTATION OF THE TLATELOLCO TREATYAND EXPRESSING THE VIEWS AND COMMENTS THAT MAY DEEM FIT TO FORMULATE ON THIS SPECIFIC MATTER" (NPT/PCI/ DEC9 DATED 8 APRIL 1974).

3. SEEMS OBVIOUS THAT VIEWS EXPRESSED REPRESENT PRIMARILY THOSE OF NON-NPT SIGNATORIES AMONG TLATELOLCO ADHERENTS. WE UNAWARE WHETHER OTHER OPANAL STATES, SUCH AS MEXICO, HAVE ENDORSED THE DOCUMENT, OR ARE AWARE OF ITS IMPLICATIONS. WHAT IS CURIOUS AS WELL AS OMINOUS ARE APPARENT ASSERTIONS THAT (A) PARTIES TO "REGIONAL ARRANGEMENTS" SHOULD ENJOY SAME BENEFITS AS NPT PARTIES; AND (B) ANY COUNTRY WHICH HAS FORMALLY RENOUNCED NUCLEAR WEAPONS THROUGH VALID INTERNATIONAL AGREEMENT, SUCH AS TLATELOLCO TREATY, SHOULD BE PERMITTED TO DEVELOP PNE CAPACITY. (AT LEAST, THIS IS THE WAY WE READ IT.) LATTER IS PARTICULARLY PERPLEXING, IN VIEW OF FACT THAT OPANAL (GONZALEZ-DE-LEON) NEGOTIATED SAFEGUARDS AGREEMENT WITH IAEA ON BEHALF OF PANAMA IN ACCORDANCE WITH LATTER'S OBLIGATIONS UNDER TLATELOLCO TREATY, AND THIS AGREEMENT, WHICH WAS APPROVED BY IAEA BOARD OF GOVERNMENTS IN JUNE AND WHICH IS BASED ON NPT-TYPE SAFEGUARDS AGREEMENTS (INFCIRC/153), CLEARLY PROHIBITS USE OF SAFEGUARDED MATERIALS FOR ANY NUCLEAR EXPLOSIVE DEVICE. THERE IS THUS A FUNDAMENTAL INCONSISTENCY IN WHAT GONZALEZ-DE-LEON SEEMS TO BE CLAIMING.
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PAGE 04 IAEA V 07055 121354Z

4. REFERENCE TO APPLICABILITY OF IAEA SAFEGUARDS "IN ANY STATE WHICH SO REQUIRES" IS NOT RPT NOT CLEAR; IT MAY REFER TO APPLICABILITY OF INFCIRC/153 (NPT-TYPE) SAFEGUARDS REGIME FOR TLATLELOLCO TREATY ADHERENTS INSTEAD OF INFCIRC/66 REGIME WHICH IS NORMALLY APPLICABLE FOR NON-NPT PARTIES. THIS QUESTION WOULD APPEAR TO HAVE BEEN SETTLED, HOWEVER, BY BG APPROVAL OF SAFEGUARDS AGREEMENT WITH PANAMA NOTED ABOVE, FOR CASE IN WHICH AGREEMENT COVERS ALL NUCLEAR MATERIAL IN ALL NUCLEAR ACTIVITIES OF PARTY TO TLATLELOLCO TREATY. PORTER

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